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## DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

## DEPARTMENT OF THE ARMY

Corps of Engineers

Supplemental Environmental Impact Statement, Mingo County, West Virginia

AGENCIES: Federal Highway Administration (FHWA), DOT. U.S. Army Corps of Engineers (USACE), DoD.

ACTION: Notice of intent to prepare a supplemental environmental impact statement

SUMMARY: The Federal Highway Administration (FHWA) and the United States Department of the Army Corps of Engineers (USACE) in cooperation with the West Virginia Division of Highways (WVDOH) will prepare a supplemental environmental impact statement (SEIS) to evaluate the impacts of the proposed Delbarton to Belo portion of the King Coal Highway 2000 FEIS and the Buffalo Mountain Surface Mine *Clean Water Act* Section 404 Permit Application. The FHWA and USACE are joint-lead federal agencies on this project and are evaluating federal actions. FHWA is evaluating a location shift of a portion of the alignment between the West Virginia towns of Delbarton and Belo described in the 2000 FEIS and approved in the 2000 ROD. The USACE is evaluating a *Clean Water Act* (CWA) Section 404 Individual Permit (IP) application submitted by Consol of Kentucky, Inc. (CONSOL), for the discharge of fill material into waters of the United States (U.S.) in conjunction with the construction and operation of the Buffalo Mountain Surface Mine.

DATES: To ensure that a full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and suggestions concerning the proposed action and the SEIS should be submitted to FHWA, the USACE or WVDOH ([www.transportation.wv.gov](http://www.transportation.wv.gov)) at the address below within 30 days to ensure timely consideration.

FOR FURTHER INFORMATION CONTACT: Thomas Smith, Division Administrator, Federal Highway Administration, 700 Washington Street, E., Charleston, WV 25301; telephone: (304) 347-5928; email: [Thomas.Smith@dot.gov](mailto:Thomas.Smith@dot.gov). Ginger Mullins, Chief, Regulatory Branch, U.S. Army Corps of Engineers, 502 Eighth Street, Huntington, WV 25701-2070; telephone: (304) 399-5610; email: [ginger.mullins@usace.army.mil](mailto:ginger.mullins@usace.army.mil). Greg E. Bailey, P.E., Director Engineering Division, WVDOH, State Capitol Complex, Building 5, 1900 Kanawha Boulevard, East, Charleston, WV 26305; telephone: (304) 558-9722; email: [Gregory.L.Bailey@wv.gov](mailto:Gregory.L.Bailey@wv.gov).

#### SUPPLEMENTARY INFORMATION:

1. Description of the Proposed Action – CONSOL proposes to extract coal within the vicinity of Delbarton and Belo for the proposed Buffalo Mountain Surface Mine. The construction and operation of the Buffalo Mountain Surface Mine will require the discharge of fill material into waters of the U.S.; therefore, CONSOL is required to obtain a CWA Section 404 IP. In 2008, CONSOL submitted an application for a CWA Section 404 IP, and the USACE issued Public Notice 2008-491 on December 3, 2008. The USACE is currently processing the Department of Army (DA) permit application (LRH-2008-491-TUG).

The King Coal Highway is a series of transportation improvements stretching for 94 miles in southern West Virginia. The approximate length of the Delbarton to Belo portion of the project is 7 miles. The King Coal Highway is also part of the I-73/74 National Highway System (NHS) Corridor. A final environmental impact statement (FEIS) for the entire King Coal Highway was approved by FHWA in June 2000 and a record of decision (ROD) was issued on August 24, 2000. Sections of the overall project are complete and open to traffic and a few others are currently under construction. Due to the limited availability of federal and state funding for the King Coal Highway, however, much of the highway alignment has not been constructed. Since the issuance of the ROD, an opportunity for a joint development initiative was identified during CONSOL's development of a plan to extract mineable coal reserves between the towns of Delbarton and Belo, Mingo County, West Virginia. A joint development initiative would incorporate the approved highway project into the post-mining land use plan of CONSOL's proposed Buffalo Mountain Surface Mine, and it would allow future highway construction to occur on land disturbed by a surface mine operation. In addition, the opportunity to combine the adjacent King Coal Highway and the Buffalo Mountain Surface Mine project areas would limit the resource impacts from each project to one location as well as minimize highway construction costs. The joint development initiative requires the portion of the King Coal Highway Corridor between Delbarton and Belo to be shifted eastward beyond the previously approved corridor alignment, and requires the WVDOH and FHWA to re-evaluate the June 2000 King Coal Highway EIS.

The SEIS will review information from the King Coal Highway FEIS/ROD, incorporate new information, update the impacts analysis, and assess impacts not previously evaluated in the FEIS/ROD. To streamline federal processes, the SEIS will also include the USACE's NEPA evaluation of DA permit application LRH-2008-491-TUG.

2. Alternatives – Alternatives available to FHWA for the proposed project are the no-build alternative, highway construction on new alignment within the Original King Coal Highway Corridor (i.e., the selected alternative from the 2000 ROD), or a joint development initiative (i.e., construction of a new highway alignment within the Buffalo Mountain Surface Mine).

Alternatives available to the USACE for the proposed project are issue the permit, issue the permit with special conditions, or deny the permit.

3. Scoping and Review Process –Throughout the course of the project, scoping and public involvement efforts for the original King Coal Highway Project have included: (1) a formal scoping meeting on September 16, 1999. (2) agency resource meetings for the King Coal Highway Project on October 13, 1995, and January 29, 1997; and, (3) public information workshops/public hearings on November 9, 1992, November 10, 1992, November 17, 1992, November 24, 1992. May 18, 1998, May 20, 1998, May 27, 1998, February 28, 2000, February 29, 2000, March 2, 2000, March 13, 2000, March 14, 2000, and March 16, 2000.

There have also been several public outreach activities associated with the Buffalo Mountain Surface Mine. These include multiple meetings with the Pigeon Creek Watershed Association between January 2007 and April 2008, a meeting with

officials from the Town of Delbarton in October 2008, and agency coordination meetings with the USACE, U.S. Environmental Protection Agency (USEPA), FHWA, and West Virginia Department of Environmental Protection (WVDEP) between June 2008 and February 2010. In addition, information on the joint development initiative was presented at public meetings on December 11, 2008, and November 17, 2011.

Agency and public scoping meetings will be held during the development of the SEIS. The public scoping meeting will be announced a minimum of 15 days in advance of the meeting. The WVDOH will provide information for the public meeting, including date, time and location, on their website and by newspaper advertisement. The USACE will issuance the public meeting information via Public Notice.

4. Significant Issues – Based on preliminary information, the issues to be analyzed in the SEIS are likely to include, but are not limited to, the effects to surface water and groundwater resources, including aquatic habitat, water quantity and quality; wetlands; effects on the immediate and adjacent property owners and nearby communities; downstream hydraulics and hydrology; geologic resources; vegetation and forestland; fish and wildlife; threatened and endangered species; socioeconomics; land use; transportation impacts; and cumulative and secondary effects.
5. Additional Review and Consultation – The SEIS will comply with other Federal and State requirements including, but not limited to, the *Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users* (SAFETEA-LU); State water quality certification under Section 401 of the CWA; protection of water quality under

the *West Virginia/National Pollutant Discharge Elimination System*; protection of air quality under the *West Virginia Air Pollution Control Act*; protection of endangered and threatened species under Section 7 of the *Endangered Species Act*; and protection of cultural resources under Section 106 of the *National Historic Preservation Act*.

6. Availability of the Draft SEIS – A Draft SEIS will be available for public review and comment. Individuals interested in obtaining a copy of the draft SEIS for review should contact either the FHWA or USACE. Comments will also be accepted through the WVDOH website at the URL provided above.

Authority: 23 U.S.C. 315; 49 CFR 1.48; 33 CFR PART 325.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 18, 2012

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ROBERT D. PETERSON  
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Commanding

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